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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,282	02/16/2005	Eddy Boucke	BER-101-PCT/US	7823
61215	7590	01/10/2008	EXAMINER	
DAVID I. ROCHE			CHIMIAK, EMILY ANN	
BAKER & MCKENZIE LLP			ART UNIT	PAPER NUMBER
130 EAST RANDOLPH DRIVE			1791	
CHICAGO, IL 60601				
MAIL DATE		DELIVERY MODE		
01/10/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/525,282	BOUCKE, EDDY
	<b>Examiner</b>	<b>Art Unit</b>
	Emily Chimiak	1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 October 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
  - 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 and 11-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 February 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claim 10 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/18/2007. Amended claim 10, even in amended form to recite that the panel is manufactured by the method of claim 1, has no novel technical feature in common with the method claims as all of the limitations of claim 1 are old in the art (see the rejections of claim 1 below).

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-9 and 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers (US 20030159385) in view of Cornell (US 4348448) and MacDonald et al. (US 4008551).

As to claim 1, Thiers discloses a method of fabricating a floor covering, the method comprising the steps of:

- providing a panel body having a core, a top side of said core being provided with a top surface layer, said panel body further having a side surface extending transversely to the top surface layer (see figure 4 and [0001], [0008], [0046]).

Thiers discloses an embodiment wherein bevel 11 is placed at the upper edge and decorative layer 12 is provided by means of a print layer 13 that is present on a carrier (adhesive) ([0052]). However, Thiers does not disclose forming a recess extending under the top surface layer for the side surface into the panel body by leaving a freestanding ledge including said top surface layer, said recess having opposing first and second recess surfaces. Furthermore, Thiers does not disclose closing said recess by fixing the first and second recess surfaces to one another, thereby forming a floor panel having a beveled top edge with the top surface layer extending continuously and in one piece form the top side of the core over the beveled top edge.

However, Cornell teaches this sequence of steps in order to form a veneer covered plywood panel without unsightly joint edges (col. 1 lines 36-47 and col. 7 lines 20-34). Although the reference is concerned with curvilinear corners for a counter, one reading the reference would appreciate that the teaching applies to any panel with surfaces that should look finished based on the disclosure in col. 1 lines 35-48). While Cornell discloses a filler layer

between the beveled edge and the top layer in order to provide a curvilinear edge, such is not necessary. MacDonald et al. teaches bonding the top layer, a veneer to core 26 over the beveled edge without the use of a filler (see col. 2 lines 50-63 and col. 3 line 67-col. 4 line 2).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method disclosed by Thiers by forming a recess as described by Cornell in order to prevent a joint line at the beveled surface and to attach the veneer directly to the beveled edge as taught by MacDonald et al. to make the veneer flush with the edge.

As to claim 2, the recess of Thiers as modified by Cornell is wedge-shaped.

As to claim 3, the first recess surface is arranged adjacent to and essentially parallel to said top surface layer in the method of Thiers as modified by Cornell.

As to claim 4, the first and second recesses are plain in the method of Thiers as modified by Cornell.

As to claim 5, Thiers does not disclose applying adhesive to the recess. However, Cornell teaches that before folding to close the recess, an appropriate adhesive should be deposited to surfaces (20), (21), which are located in the recess (col. 4 lines 55-64 and figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to apply adhesive to core disclosed by Thiers in the step of closing the recess as taught by Cornell in order to enhance the adhesion between veneer and the core.

As to claim 6, the step of closing the recess necessarily includes the step of applying pressure to the ledge in order to fold the ledge over the beveled edge.

As to claim 7, the ledge consists essentially of said top surface layer in the invention of Thiers as modified by Cornell and MacDonald et al.

As to claim 8, the floor panel includes a joining element for connecting to a further joining element of an adjacent floor panel in a floor covering formed by said floor panels which is formed at the same time as the beveled edge ([0051] and [0052] in Thiers. When Thiers is modified by Cornell, the step of forming a recess occurs at the same time as the step of forming the joining elements.

The limitations of claim 11 have been addressed in the rejection of claim 1.

Claims 12-18 are rejected as claims 2-8, respectively.

4. Claims 9 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thiers, Cornell and MacDonald et al. as applied to claims 1 and 18 above, and further in view of Turner (US 4704834).

It is unclear whether the combination of references above discloses the step of removing material from side surface adjacent to said recess to provide a flushing side surface after having closed said recess. However, Turner discloses that for a finished look, the veneer overlay of a panel is trimmed off (col. 3 lines 28-30). It would have been obvious to one of ordinary skill in the art at the time of invention to trim the veneers as taught by Turner in order to provide a finished look in the method of Thiers as modified by Cornell and MacDonald et al.

Claim 19 is rejected similarly.

5. Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Theirs in view of Cornell, MacDonald et al. and Turner.

The limitations of claim 20 have been addressed by claims 9 and 19.

As to claims 21-25, the rejection of claims 2, 3, 4, 7 and 8, respectively, are relied on.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Chimiak whose telephone number is (571)272-6486. The examiner can normally be reached on Monday-Friday 8:30-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)272-6486. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*El*  
EAC

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